

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

MARTIN WALSH and DORA  
WALSH,

Plaintiffs,

vs.

ROGER THOMPSON; MADISON  
COUNTY, MONTANA; and DOES 1-  
10,

Defendants.

CV 20-63-BU-JTJ

**ORDER**

The Court conducted a hearing on all pending motions on April 22, 2021.

For the reasons discussed in open court,

**IT IS HEREBY ORDERED:**

1. Defendant Madison County's Motion to Dismiss Plaintiffs' First Amended (Doc. 7) is treated as a motion to dismiss Plaintiffs' Second Amended Complaint given that Plaintiffs filed a Second Amended Complaint on March 5, 2021. *See* 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1476 at 638 (3d ed.). Defendant Madison County's motion to dismiss is GRANTED in part, and DENIED in part, as follows:

- a. The portion of motion that seeks the dismissal of Plaintiffs' claim for punitive damages under 42 U.S.C. § 1983 is GRANTED.
- b. The motion is DENIED in all other respects.

2. Defendant Roger Thompson's Motion to Dismiss Plaintiffs' First Amended Complaint (Doc. 9) is treated as a motion to dismiss Plaintiffs' Second Amended Complaint. Defendant Thompson's motion to dismiss is GRANTED in part, and DENIED in part, as follows:

- a. The portion of motion that seeks the dismissal of Plaintiffs' § 1983 claim against Defendant Thompson in his official capacity is GRANTED.
- b. The motion is DENIED in all other respects.

3. Defendant Madison County's Motion to Strike Plaintiffs' Second Amended Complaint (Doc. 19) is DENIED.

DATED this 23rd day of April, 2021.



John Johnston  
United States Magistrate Judge